

David Abrams, Attorney at Law  
305 Broadway Suite 601  
New York, New York 10007  
Tel. 212-897-5821 Fax 212-897-5811

United States District Court  
Eastern District of New York

_____	)	
Ryan Rivera,	)	
	)	
Plaintiff,	)	
	)	
- against -	)	No. 16 cv 6301 (KAM) (ST)
	)	
Limassol Grocery, Corp. a/k/a Gyro Corner,	)	
	)	
Defendant.	)	
_____	)	

**Affirmation of David Abrams in Support of Application for Default Judgment**

1. I am the Plaintiff's attorney in the above-referenced matter. I make this affirmation in support of my client's application for default judgment.
2. I was retained by my client in this matter on or about June 26, 2016 and on or about the same day, I submitted a charge on my client's behalf. A copy of the charge and transmittal are attached hereto as Exhibit A.
3. Although in Exhibit A I requested the opportunity to submit a rebuttal, the next communication I received from the EEOC in this matter was a Notice of Right to Sue rejecting on the charge on the ground that the Defendant did not employ the requisite number of employees. A copy of the Notice of Right to Sue is attached hereto as Exhibit B.
4. I later obtained a copy of the Defendant's EEOC submission. A copy of the submission is attached hereto as Exhibit C.
5. As set forth in the submission, the Defendant submitted a government payroll report to the EEOC and argued that it did not employ 15 or more employees.

6. It should be noted that the payroll report is clearly incorrect -- it does not even include my client as a worker, apparently because he worked "off the books."

7. If the EEOC had given me and my client the opportunity to respond, we would have submitted various evidence showing that the Defendant in reality employed various persons not identified in its EEOC submission and was in reality over the 15-employee threshold.

8. Thus, the Defendant's fraud had a devastating effect on my client's right to seek relief from the EEOC.

9. Before filing the complaint in this matter, I checked with the New York Secretary of State and confirmed that the Defendant is a New York Corporation.

10. Subsequently, after this matter was filed, the Defendant doubled down on its claim regarding the number of employees it employed. For example, attached hereto as Exhibit D is an affirmation it submitted in connection with a proposed motion to dismiss.

11. After filing suit in this Court, the Defendant announced its intention to file a motion to dismiss based on the number of employees. After a conference call with the Court, the Defendant changed direction and discovery started.

12. I served various discovery requests on the Defendant, among other things asking for various information concerning the number of employees. The Defendant repeatedly served evasive or non-responses to my discovery requests; I made repeated applications to the court to compel a response.

13. The most recent order compelling discovery was on August 11, 2017 (Docket #36).

14. To date, the Defendant has failed to comply with that Order and/or provide satisfactory discovery responses despite numerous oral conversations between me and opposing counsel regarding the deficiencies in the discovery responses. Instead,

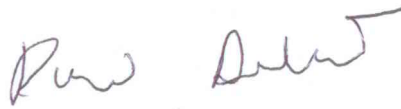
Defendant it ceased paying its attorneys and announced that it would no longer defend the case.

15. Indeed, the Defendant was specifically advised at a conference in this matter on August 16, 2017 that if it did not appear in this matter through counsel, Plaintiff would be able to seek default judgment.

16. Subsequently, on September 26, 2017 Defendant was given until October 10 to retain new counsel and appear, absent such appearance, Plaintiff would be permitted to seek entry of default.

17. Defendant failed to do so and Plaintiff promptly filed an application for entry of default which was granted on October 27, 2017 (Docket entry number 43).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



---

Dated: November 27, 2017  
New York, New York

# Exhibit A

David Abrams, Attorney at Law  
P.O. Box 3353, Church Street Station, New York, NY 10008  
Tel. 212-897-5821 Fax 212-897-5811

June 26, 2016

To: Equal Employment Opportunity Commission (by first class mail)  
New York District Office  
33 Whitehall Street, 5th Floor  
New York, NY 10004

Re: Rivera v. Gyro Corner

Dear Sir / Madam:

This office represents the above named individual in connection with his employment at the above-referenced firm. Enclosed please find a Charge of Discrimination. Kindly file the Charge and process it as necessary.

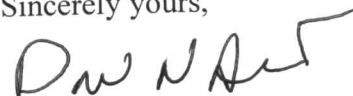
Also, I respectfully request a copy of the Respondent's position statement so that I may submit a rebuttal.

Finally, please direct any correspondence concerning this matter to me at the following address:

David Abrams  
P.O. Box 3353  
Church Street Station  
New York, NY 10008

Thank you for your attention to these matters.

Sincerely yours,



David Abrams

Enc.

**CHARGE OF DISCRIMINATION**

AGENCY

CHARGE NUMBER

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

FEPA

X EEOC

New York State Division of Human Rights; New York City Commission on Human Rights and EEOC

State or local Agency, if any

NAME (Indicate Mr., Ms., Mrs.)

HOME TELEPHONE (Include Area Code)

Mr. Ryan Rivera

347-797-9059

STREET ADDRESS CITY, STATE AND ZIP CODE

DATE OF BIRTH

15-35 150 St., Whitestone NY 11357

7/19/1998

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME

NUMBER OF EMPLOYEES, MEMBERS

TELEPHONE (Include Area Code)

Limassol Grocery Corp

15+

718-359-5454

STREET ADDRESS CITY, STATE AND ZIP CODE

COUNTY

32-69 Francis Lewis Boulevard, Flushing NY 11358

Queens

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

DATE DISCRIMINATION TOOK PLACE  
EARLIEST (ADEA/EPA) LATEST (ALL)

RACE

COLOR

SEX

X

RELIGION

AGE

RETALIATION

NATIONAL  
ORIGIN

DISABILITY

OTHER (Specify)

ongoing

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I have been employed by Limassol Grocery Corp. d/b/a Gyro Corner (the "Employer") for approximately 1 year. The Employer is a restaurant and I work as a busboy and on the phones. I am a male homosexual.

For approximately 10 months now, the chefs at work have been sexually harassing me. For example, they have asked me to perform oral sex on them in the basement and have slapped me on my rear end. Comments and activities like this take place on a daily basis.

Approximately a month or two after this conduct started, I complained to management but the behavior continued. My most recent complaint was in the last week or two; since then, the situation has improved but I am still the subject of this kind of harassing activity.

I want this charge filed with both the EEOC and the State or local Agency, if required by work-sharing agreement. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - (When necessary for State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE

6/22/16  
(Day, month, and year)

Date

Charging Party (Signature)

EEOC FORM 5 (Test 10/94)

David Abrams

DAVID ABRAMS  
Notary Public, State of New York  
No. 02AB6097088  
Qualified in New York County  
Commission Expires August 18, 2019.

# Exhibit B



EEOC Form 161 (11/09)

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: **Ryan Rivera**  
**15-35 150 Street**  
**Whitestone, NY 11357**

From: **New York District Office**  
**33 Whitehall Street**  
**5th Floor**  
**New York, NY 10004**



On behalf of person(s) aggrieved whose identity is  
**CONFIDENTIAL (29 CFR §1601.7(a))**

EEOC Charge No.

EEOC Representative

Telephone No.

**520-2016-02864**

**Roxanne Zygmund,**  
**Investigator**

**(212) 336-3665**

**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

**- NOTICE OF SUIT RIGHTS -**

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

*Kevin J. Berry*

**Kevin J. Berry,**  
**District Director**

**OCT 17 2016**

(Date Mailed)

Enclosures(s)

cc: **Peter Mammis, Esq.**  
**C/O Pegasus Capital Management Inc.**  
**48-02 25<sup>th</sup> Avenue, Suite 304B**  
**Astoria, New York 11103**

**David Abrams**  
**LAW OFFICES OF DAVID ABRAMS**  
**PO Box 3353**  
**Church Street Station**  
**New York, NY 10008**



# Exhibit C

LIMASSOL GROCERY CORP  
32-69 Francis Lewis Blvd  
Bayside, New York 11358

August 24, 2016

New York State Division of Human Rights  
New York City Commission on Human Rights  
New York District Office  
33 Whitehall Street, 5th Floor  
New York, New York 10004

Re: Ryan Rivera v Limassol Grocery Corp. 520-2016-02864

I am the president of Limassol Grocery Corp.

I am in receipt of the Complaint of Ryan Rivera, which I have read and to which I now respond.

Initially, I respectfully request that the complaint be dismissed because for all relevant time periods this company has had less than fifteen (15) employees and as such does not fall within the purview of the statute. I have attached to this response the company's 2016 and 2015 IRS form 941.

Next, in regard to the factual allegations of the complaint, I was not aware of any such allegations until I received the complaint. Thereafter, I spoke to all of the cooks who work for the company.

Through my conversations with the cooks, I have determine that mr Ryan Rivera Orchestrated the allegations for financial benefit and none of the incidents stated by him ever occurred

Due to the foregoing, I respectfully request that the instant complaint be dismissed.

Please direct all further inquiries to my attorney, Mr. Peter Mammis, Esq.

Thank you.

Sincerely,

Constantine Dionysiou, President

Form **941 for 2016:** **Employer's QUARTERLY Federal Tax Return**

970114

(Rev. January 2016)

Department of the Treasury — Internal Revenue Service

OMB No. 1545-0029

Employer identification number (EIN)

46-1228531

Name (not your trade name)

LIMASSOL GROCERY CORP

Trade name (if any)

GYRO CORNER

Address

3269 FRANCIS LEWIS BLVD

FLUSHING

NY

11358

**Report for this Quarter of 2016**  
(Check one.)

- ☐ 1: January, February, March
- ☒ 2: April, May, June
- ☐ 3: July, August, September
- ☐ 4: October, November, December

Instructions and prior-year forms are available at [www.irs.gov/form941](http://www.irs.gov/form941).

QBME2901L 02/17/16

Read the separate instructions before you complete Form 941. Type or print within the boxes.

**Part 1: Answer these questions for this quarter.**

- 1 Number of employees who received wages, tips, or other compensation for the pay period including: Mar. 12 (Quarter 1), June 12 (Quarter 2), Sept. 12 (Quarter 3), or Dec. 12 (Quarter 4) ... 1 11
- 2 Wages, tips, and other compensation ..... 2 66698.67
- 3 Federal income tax withheld from wages, tips, and other compensation ..... 3 4830.59
- 4 If no wages, tips, and other compensation are subject to social security or Medicare tax. .... ☐ Check and go to line 6.

- |  | Column 1        |          | Column 2        |
|--|-----------------|----------|-----------------|
| 5a Taxable social security wages .....   | <u>63402.57</u> | x .124 = | <u>7861.92</u>  |
| 5b Taxable social security tips .....  | <u>3296.10</u>  | x .124 = | <u>408.72</u>   |
| 5c Taxable Medicare wages & tips .....   | <u>66698.67</u> | x .029 = | <u>1934.26</u>  |
| 5d Taxable wages & tips subject to Additional Medicare Tax withholding .....   | <u>0.00</u>     | x .009 = | <u>0.00</u>     |
| 5e Add Column 2 from lines 5a, 5b, 5c, and 5d. ....  |                 |          | <u>10204.90</u> |
| 5f Section 3121(q) Notice and Demand — Tax due on unreported tips (see instructions). ....   |                 |          | <u></u>         |
| 6 Total taxes before adjustments. Add lines 3, 5e, and 5f. ....  |                 |          | <u>15035.49</u> |
| 7 Current quarter's adjustment for fractions of cents. ....  |                 |          | <u>-0.12</u>    |
| 8 Current quarter's adjustment for sick pay. ....  |                 |          | <u></u>         |
| 9 Current quarter's adjustments for tips and group-term life insurance. ....   |                 |          | <u></u>         |
| 10 Total taxes after adjustments. Combine lines 6 through 9. ....  |                 |          | <u>15035.37</u> |
| 11 Total deposits for this quarter, including overpayment applied from a prior quarter and overpayments applied from Form 941-X, 941-X (PR), 944-X, or 944-X (SP) filed in the current quarter. .... |                 |          | <u>15035.37</u> |
| 12 Balance due. If line 10 is more than line 11, enter the difference and see instructions. ....   |                 |          | <u></u>         |

13 Overpayment. If line 11 is more than line 10, enter the difference Check one: ☐ Apply to next return. ☐ Send a refund.

▶ You MUST complete both pages of Form 941 and SIGN it.

Next ▶

**Schedule B (Form 941): Report of Tax Liability for Semiweekly Schedule Depositors**

OMB No. 1545-0029

770311

Calendar Year 2016

Department of the Treasury — Internal Revenue Service

Report for this Quarter

Employer identification number 46-1228531Name (not your trade name) LIMASSOL GROCERY CORP

Use this schedule to show your TAX LIABILITY for the quarter; DO NOT use it to show your deposits. When you file this form with Form 941 or Form 941-SS, DO NOT change your tax liability by adjustments reported on any Forms 941-X or 944-X. You must fill out this form and attach it to Form 941 or Form 941-SS if you are a semiweekly schedule depositor or became one because your accumulated tax liability on any day was \$100,000 or more. Enter your daily tax liability on the numbered space that corresponds to the date wages were paid. See Section 11 in Pub. 15 (Circular E), Employer's Tax Guide, for details.

☐  
☒  
☐  
☐

- 1: January, February, March  
 2: April, May, June  
 3: July, August, September  
 4: October, November, December

**Month 1**

1	9	17	25
2	10	18	26
3	11	19	27
4	12	20	28
5	13	21	29
6	14	22	30
7	15	23	31
8	16	24	

1170.82  
 1242.15  
 1231.01  
 1211.75

Tax liability for Month 1

4855.73

**Month 2**

1	9	17	25
2	10	18	26
3	11	19	27
4	12	20	28
5	13	21	29
6	14	22	30
7	15	23	31
8	16	24	

1205.34  
 1189.75  
 1208.79  
 1151.54  
 1192.65

Tax liability for Month 2

5948.07

**Month 3**

1	9	17	25
2	10	18	26
3	11	19	27
4	12	20	28
5	13	21	29
6	14	22	30
7	15	23	31
8	16	24	

979.14  
 923.41  
 1222.20  
 1106.82

Tax liability for Month 3

4231.57

Fill in your total liability for the quarter (Month 1 + Month 2 + Month 3) ▶

Total must equal line 10 on Form 941 or Form 941-SS.

Total liability for the quarter

15035.37

Form **941 for 2016:** **Employer's QUARTERLY Federal Tax Return**

970114

(Rev. January 2016)

Department of the Treasury — Internal Revenue Service

OMB No. 1545-0029

Employer identification number (EIN)

46-1228531

Name (not your trade name)

LIMASSOL GROCERY CORP

Trade name (if any)

GYRO CORNER

Address

3269 FRANCIS LEWIS BLVD

FLUSHING

NY

11358

**Report for this Quarter of 2016**  
(Check one.)

- ☒ 1: January, February, March
- ☐ 2: April, May, June
- ☐ 3: July, August, September
- ☐ 4: October, November, December

Instructions and prior-year forms are available at [www.irs.gov/form941](http://www.irs.gov/form941).

QBME2901L 02/17/16

Read the separate instructions before you complete Form 941. Type or print within the boxes.

**Part 1: Answer these questions for this quarter.**

- 1 Number of employees who received wages, tips, or other compensation for the pay period including: Mar. 12 (Quarter 1), June 12 (Quarter 2), Sept. 12 (Quarter 3), or Dec. 12 (Quarter 4) ... 1 11
- 2 Wages, tips, and other compensation ..... 2 70033.17
- 3 Federal income tax withheld from wages, tips, and other compensation ..... 3 5154.35
- 4 If no wages, tips, and other compensation are subject to social security or Medicare tax. .... ☐ Check and go to line 6.
- |  | Column 1  |          | Column 2 |
|--|---|----------|----------|
| 5a Taxable social security wages .....   | 66685.62  | x .124 = | 8269.02  |
| 5b Taxable social security tips .....  | 3347.55   | x .124 = | 415.10   |
| 5c Taxable Medicare wages & tips .....   | 70033.17  | x .029 = | 2030.96  |
| 5d Taxable wages & tips subject to Additional Medicare Tax withholding .....   | 0.00  | x .009 = | 0.00     |
| 5e Add Column 2 from lines 5a, 5b, 5c, and 5d .....  | 5e <span style="border: 1px solid black; padding: 2px;">10715.08</span> |          |          |
| 5f Section 3121(q) Notice and Demand — Tax due on unreported tips (see instructions) .....   | 5f <span style="border: 1px solid black; padding: 2px;"></span>         |          |          |
| 6 Total taxes before adjustments. Add lines 3, 5e, and 5f .....  | 6 <span style="border: 1px solid black; padding: 2px;">15869.43</span>  |          |          |
| 7 Current quarter's adjustment for fractions of cents .....  | 7 <span style="border: 1px solid black; padding: 2px;">-0.14</span>     |          |          |
| 8 Current quarter's adjustment for sick pay .....  | 8 <span style="border: 1px solid black; padding: 2px;"></span>          |          |          |
| 9 Current quarter's adjustments for tips and group-term life insurance .....   | 9 <span style="border: 1px solid black; padding: 2px;"></span>          |          |          |
| 10 Total taxes after adjustments. Combine lines 6 through 9 .....  | 10 <span style="border: 1px solid black; padding: 2px;">15869.29</span> |          |          |
| 11 Total deposits for this quarter, including overpayment applied from a prior quarter and overpayments applied from Form 941-X, 941-X (PR), 944-X, or 944-X (SP) filed in the current quarter ..... | 11 <span style="border: 1px solid black; padding: 2px;">15869.29</span> |          |          |
| 12 Balance due. If line 10 is more than line 11, enter the difference and see instructions. ....   | 12 <span style="border: 1px solid black; padding: 2px;"></span>         |          |          |

13 Overpayment. If line 11 is more than line 10, enter the difference

Check one:

☐

Apply to next return.

☐

Send a refund.

▶ You MUST complete both pages of Form 941 and SIGN it.

Next ▶

970214

Form 941 (Rev. 1-2016) Page 2

Name (not your trade name)

LIMASSOL GROCERY CORP

Employer identification number (EIN)

46-1228531

**Part 2: Tell us about your deposit schedule and tax liability for this quarter.**

If you are unsure about whether you are a monthly schedule depositor or a semiweekly schedule depositor, see section 11 of Pub. 15.

- 14 Check one: ☐ Line 10 on this return is less than \$2,500 or line 10 on the return for the prior quarter was less than \$2,500, and you did not incur a \$100,000 next-day deposit obligation during the current quarter. If line 10 for the prior quarter was less than \$2,500 but line 10 on this return is \$100,000 or more, you must provide a record of your federal tax liability. If you are a monthly schedule depositor, complete the deposit schedule below; if you are a semiweekly schedule depositor, attach Schedule B (Form 941). Go to Part 3.

- ☐ You were a monthly schedule depositor for the entire quarter. Enter your tax liability for each month and total liability for the quarter, then go to Part 3.

Tax liability: Month 1

Month 2

Month 3

Total liability for quarter

Total must equal line 10.

- ☒ You were a semiweekly schedule depositor for any part of this quarter. Complete Schedule B (Form 941), Report of Tax Liability for Semiweekly Schedule Depositors, and attach it to Form 941.

**Part 3: Tell us about your business. If a question does NOT apply to your business, leave it blank.**

- 15 If your business has closed or you stopped paying wages ..... ☐ Check here, and

enter the final date you paid wages

- 16 If you are a seasonal employer and you do not have to file a return for every quarter of the year ..... ☐ Check here.

**Part 4: May we speak with your third-party designee?**

Do you want to allow an employee, a paid tax preparer, or another person to discuss this return with the IRS? See instructions for details.

- ☐ Yes. Designee's name and phone number

- ☒ No. Select a 5-digit Personal Identification Number (PIN) to use when talking to the IRS.

QBME2902L 02/17/16

**Part 5: Sign here. You MUST complete both pages of Form 941 and SIGN it**

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

► Sign your name here

Print your name here

Print your title here

Date

Best daytime phone

**Paid Preparer Use Only**Check if you are self-employed ..... ☒

Preparer's name

PTIN

Preparer's signature

Date

Firm's name (or yours if self-employed)

EIN

Address

Phone



Form **941 for 2015:** **Employer's QUARTERLY Federal Tax Return**  
(Rev. January 2015) Department of the Treasury — Internal Revenue Service

970114

Employer identification number (EIN)	46-1228531		
Name (not your trade name)	LIMASSOL GROCERY CORP		
Trade name (if any)	GYRO CORNER		
Address	3269 FRANCIS LEWIS BLVD		
	FLUSHING	NY	11358

OMB No. 1545-0029

**Report for this Quarter of 2015**  
(Check one.)

- ☐ 1: January, February, March
- ☐ 2: April, May, June
- ☒ 3: July, August, September
- ☐ 4: October, November, December

Instructions and prior-year forms are available at [www.irs.gov/form941](http://www.irs.gov/form941).

QBME2901L 03/05/15

Read the separate instructions before you complete Form 941. Type or print within the boxes.

**Part 1: Answer these questions for this quarter.**

1	Number of employees who received wages, tips, or other compensation for the pay period including: Mar. 12 (Quarter 1), June 12 (Quarter 2), Sept. 12 (Quarter 3), or Dec. 12 (Quarter 4)...	1	<div>11</div>
2	Wages, tips, and other compensation	2	<div>74802.44</div>
3	Federal income tax withheld from wages, tips, and other compensation	3	<div>5603.13</div>
4	If no wages, tips, and other compensation are subject to social security or Medicare tax		<input type="checkbox"/> Check and go to line 6.

	Column 1		Column 2
5a Taxable social security wages	<div>65440.99</div>	x .124 =	<div>8114.68</div>
5b Taxable social security tips	<div>9361.45</div>	x .124 =	<div>1160.82</div>
5c Taxable Medicare wages & tips	<div>74802.44</div>	x .029 =	<div>2169.27</div>
5d Taxable wages & tips subject to Additional Medicare Tax withholding	<div>0.00</div>	x .009 =	<div>0.00</div>
5e Add Column 2 from lines 5a, 5b, 5c, and 5d			<div>11444.77</div>
5f Section 3121(q) Notice and Demand — Tax due on unreported tips (see instructions)			<div></div>
6 Total taxes before adjustments. Add lines 3, 5e, and 5f			<div>17047.90</div>
7 Current quarter's adjustment for fractions of cents			<div>-0.01</div>
8 Current quarter's adjustment for sick pay			<div></div>
9 Current quarter's adjustments for tips and group-term life insurance			<div></div>
10 Total taxes after adjustments. Combine lines 6 through 9			<div>17047.89</div>
11 Total deposits for this quarter, including overpayment applied from a prior quarter and overpayments applied from Form 941-X, 941-X (PR), 944-X, 944-X (PR), or 944-X (SP) filed in the current quarter			<div>17047.89</div>
12 Balance due. If line 10 is more than line 11, enter the difference and see instructions			<div></div>
13 Overpayment. If line 11 is more than line 10, enter the difference	<div></div>	Check one: <input type="checkbox"/> Apply to next return. <input type="checkbox"/> Send a refund.	

▶ You MUST complete both pages of Form 941 and SIGN it.

Next ▶

970214

Form 941 (Rev. 1-2015) Page 2

Name (not your trade name)

LIMASSOL GROCERY CORP

Employer identification number (EIN)

46-1228531

**Part 2: Tell us about your deposit schedule and tax liability for this quarter.**

If you are unsure about whether you are a monthly schedule depositor or a semiweekly schedule depositor, see Pub. 15 (Circular E), section 11.

- 14 Check one:** ☐ **Line 10 on this return is less than \$2,500 or line 10 on the return for the prior quarter was less than \$2,500, and you did not incur a \$100,000 next-day deposit obligation during the current quarter.** If line 10 for the prior quarter was less than \$2,500 but line 10 on this return is \$100,000 or more, you must provide a record of your federal tax liability. If you are a monthly schedule depositor, complete the deposit schedule below; if you are a semiweekly schedule depositor, attach Schedule B (Form 941). Go to Part 3.

- ☐ **You were a monthly schedule depositor for the entire quarter.** Enter your tax liability for each month and total liability for the quarter, then go to Part 3.

Tax liability: Month 1

Month 2

Month 3

Total liability for quarter

Total must equal line 10.

- ☒ **You were a semiweekly schedule depositor for any part of this quarter.** Complete Schedule B (Form 941), Report of Tax Liability for Semiweekly Schedule Depositors, and attach it to Form 941.

**Part 3: Tell us about your business. If a question does NOT apply to your business, leave it blank.**

- 15 If your business has closed or you stopped paying wages** ..... ☐ Check here, and

enter the final date you paid wages

- 16 If you are a seasonal employer and you do not have to file a return for every quarter of the year** ..... ☐ Check here.

**Part 4: May we speak with your third-party designee?**

Do you want to allow an employee, a paid tax preparer, or another person to discuss this return with the IRS? See instructions for details.

☐ Yes. Designee's name and phone number

☒ No. Select a 5-digit Personal Identification Number (PIN) to use when talking to the IRS.

QBME2902L 02/25/15

**Part 5: Sign here. You MUST complete both pages of Form 941 and SIGN it**

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

► **Sign your name here**

Print your name here

Print your title here

Date

Best daytime phone

**Paid Preparer Use Only**Check if you are self-employed ..... ☒

Preparer's name

PTIN

Preparer's signature

Date

Firm's name (or yours if self-employed)

EIN

Address

Phone

**Schedule B (Form 941): Report of Tax Liability for Semiweekly Schedule Depositors**

OMB No. 1545-0029

970311

Calendar Year 2015

Department of the Treasury — Internal Revenue Service

Report for this Quarter

Employer identification number 46-1228531Name (not your trade name) LIMASSOL GROCERY CORP

Use this schedule to show your TAX LIABILITY for the quarter; DO NOT use it to show your deposits. When you file this form with Form 941 or Form 941-SS, DO NOT change your tax liability by adjustments reported on any Forms 941-X or 944-X. You must fill out this form and attach it to Form 941 or Form 941-SS if you are a semiweekly schedule depositor or became one because your accumulated tax liability on any day was \$100,000 or more. Enter your daily tax liability on the numbered space that corresponds to the date wages were paid. See Section 11 in Pub. 15 (Circular E), Employer's Tax Guide, for details.

☐ 1: January, February, March  
☐ 2: April, May, June  
☒ 3: July, August, September  
☐ 4: October, November, December

**Month 1**

1	9	17	25	
2	10	18	26	
3	11	19	27	
4	12	20	28	1411.39
5	13	21	29	1340.08
6	14	22	30	1309.49
7	15	23	31	1307.49
8	16	24		

Tax liability for Month 1

5368.45

**Month 2**

1	9	17	25	1280.20
2	10	18	26	1272.70
3	11	19	27	1256.71
4	12	20	28	1381.14
5	13	21	29	
6	14	22	30	
7	15	23	31	
8	16	24		

Tax liability for Month 2

5190.75

**Month 3**

1	9	17	25	1378.59
2	10	18	26	
3	11	19	27	
4	12	20	28	
5	13	21	29	1321.36
6	14	22	30	1288.18
7	15	23	31	1219.53
8	16	24		1281.03

Tax liability for Month 3

6488.69

Fill in your total liability for the quarter (Month 1 + Month 2 + Month 3) ▶

Total must equal line 10 on Form 941 or Form 941-SS.

Total liability for the quarter

17047.89

**Schedule B (Form 941): Report of Tax Liability for Semiweekly Schedule Depositors**

OMB No. 1545-0029

970311

Calendar Year **2015**

Department of the Treasury — Internal Revenue Service

**Report for this Quarter**Employer Identification number **46-1228531**Name (not your trade name) **LIMASSOL GROCERY CORP**

Use this schedule to show your TAX LIABILITY for the quarter; DO NOT use it to show your deposits. When you file this form with Form 941 or Form 941-SS, DO NOT change your tax liability by adjustments reported on any Forms 941-X or 944-X. You must fill out this form and attach it to Form 941 or Form 941-SS if you are a semiweekly schedule depositor or became one because your accumulated tax liability on any day was \$100,000 or more. Enter your daily tax liability on the numbered space that corresponds to the date wages were paid. See Section 11 in Pub. 15 (Circular E), Employer's Tax Guide, for details.

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>

1: January, February, March

2: April, May, June

3: July, August, September

4: October, November, December

**Month 1**

1	9	17	25
2	10	18	26
3	11	19	27
4	12	20	28
5	13	21	29
6	14	22	30
7	15	23	31
8	16	24	

1280.83  
1286.74  
1278.64  
1277.16

Tax liability for Month 1

5123.37

**Month 2**

1	9	17	25
2	10	18	26
3	11	19	27
4	12	20	28
5	13	21	29
6	14	22	30
7	15	23	31
8	16	24	

1222.97  
1293.30  
1285.22  
1261.60

Tax liability for Month 2

5063.09

**Month 3**

1	9	17	25
2	10	18	26
3	11	19	27
4	12	20	28
5	13	21	29
6	14	22	30
7	15	23	31
8	16	24	

1257.33  
1236.16  
1224.16  
1220.55  
1137.88

Tax liability for Month 3

6076.08

Fill in your total liability for the quarter (Month 1 + Month 2 + Month 3) ▶

Total must equal line 10 on Form 941 or Form 941-SS.

Total liability for the quarter

16262.54

970214

Form 941 (Rev. 1-2015) Page 2

Name (not your trade name)

LIMASSOL GROCERY CORP

Employer identification number (EIN)

46-1228531

**Part 2: Tell us about your deposit schedule and tax liability for this quarter.**

If you are unsure about whether you are a monthly schedule depositor or a semiweekly schedule depositor, see Pub. 15 (Circular E), section 11.

**14 Check one:** ☐ Line 10 on this return is less than \$2,500 or line 10 on the return for the prior quarter was less than \$2,500, and you did not incur a \$100,000 next-day deposit obligation during the current quarter. If line 10 for the prior quarter was less than \$2,500 but line 10 on this return is \$100,000 or more, you must provide a record of your federal tax liability. If you are a monthly schedule depositor, complete the deposit schedule below; if you are a semiweekly schedule depositor, attach Schedule B (Form 941). Go to Part 3.

☐ You were a monthly schedule depositor for the entire quarter. Enter your tax liability for each month and total liability for the quarter, then go to Part 3.

Tax liability: Month 1

Month 2

Month 3

Total liability for quarter

Total must equal line 10.

☒ You were a semiweekly schedule depositor for any part of this quarter. Complete Schedule B (Form 941), Report of Tax Liability for Semiweekly Schedule Depositors, and attach it to Form 941.

**Part 3: Tell us about your business. If a question does NOT apply to your business, leave it blank.**

**15** If your business has closed or you stopped paying wages ..... ☐ Check here, and

enter the final date you paid wages

**16** If you are a seasonal employer and you do not have to file a return for every quarter of the year. .... ☐ Check here.

**Part 4: May we speak with your third-party designee?**

Do you want to allow an employee, a paid tax preparer, or another person to discuss this return with the IRS? See instructions for details.

☐ Yes. Designee's name and phone number

☒ No. Select a 5-digit Personal Identification Number (PIN) to use when talking to the IRS.

QBME2902L 02/25/15

**Part 5: Sign here. You MUST complete both pages of Form 941 and SIGN it**

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

► Sign your name here

Print your name here

Print your title here

Date

Best daytime phone

**Paid Preparer Use Only**Check if you are self-employed ..... ☒

Preparer's name

PTIN

Preparer's signature

Date

Firm's name (or yours if self-employed)

EIN

Address

Phone

Form **941** for 2015:  
(Rev. January 2015)**Employer's QUARTERLY Federal Tax Return**

Department of the Treasury — Internal Revenue Service

970114

Employer identification number (EIN)	46-1228531		
Name (not your trade name)	LIMASSOL GROCERY CORP		
Trade name (if any)	GYRO CORNER		
Address	3269 FRANCIS LEWIS BLVD		
	FLUSHING	NY	11358

OMB No. 1545-0029

**Report for this Quarter of 2015  
(Check one.)**

- ☐ 1: January, February, March
- ☐ 2: April, May, June
- ☐ 3: July, August, September
- ☒ 4: October, November, December

Instructions and prior-year forms are available at [www.irs.gov/form941](http://www.irs.gov/form941).

QBME2901L 03/05/15

Read the separate instructions before you complete Form 941. Type or print within the boxes.

**Part 1: Answer these questions for this quarter.**

1	Number of employees who received wages, tips, or other compensation for the pay period including: Mar. 12 (Quarter 1), June 12 (Quarter 2), Sept. 12 (Quarter 3), or Dec. 12 (Quarter 4) ..	1	11
2	Wages, tips, and other compensation .....	2	71789.95
3	Federal income tax withheld from wages, tips, and other compensation .....	3	5278.58
4	If no wages, tips, and other compensation are subject to social security or Medicare tax .....	<input type="checkbox"/> Check and go to line 6.	

	Column 1		Column 2
5a	Taxable social security wages .....	63533.97 x .124 =	7878.21
5b	Taxable social security tips .....	8255.98 x .124 =	1023.74
5c	Taxable Medicare wages & tips .....	71789.95 x .029 =	2081.91
5d	Taxable wages & tips subject to Additional Medicare Tax withholding .....	0.00 x .009 =	0.00

5e	Add Column 2 from lines 5a, 5b, 5c, and 5d .....	5e	10983.86
5f	Section 3121(q) Notice and Demand — Tax due on unreported tips (see instructions) .....	5f	
6	Total taxes before adjustments. Add lines 3, 5e, and 5f .....	6	16262.44
7	Current quarter's adjustment for fractions of cents .....	7	0.10
8	Current quarter's adjustment for sick pay .....	8	
9	Current quarter's adjustments for tips and group-term life insurance .....	9	
10	Total taxes after adjustments. Combine lines 6 through 9 .....	10	16262.54
11	Total deposits for this quarter, including overpayment applied from a prior quarter and overpayments applied from Form 941-X, 941-X (PR), 944-X, 944-X (PR), or 944-X (SP) filed in the current quarter .....	11	16262.54
12	Balance due. If line 10 is more than line 11, enter the difference and see instructions .....	12	
13	Overpayment. If line 11 is more than line 10, enter the difference		

Check one: ☐ Apply to next return. ☐ Send a refund.

▶ You MUST complete both pages of Form 941 and SIGN it.

Next ▶



**Schedule B (Form 941): Report of Tax Liability for Semiweekly Schedule Depositors**

OMB No. 1545-0029

970311

Calendar Year 2016

Department of the Treasury — Internal Revenue Service

Employer identification number 46-1228531**Report for this Quarter**Name (not your trade name) LIMASSOL GROCERY CORP

Use this schedule to show your TAX LIABILITY for the quarter; DO NOT use it to show your deposits. When you file this form with Form 941 or Form 941-SS, DO NOT change your tax liability by adjustments reported on any Forms 941-X or 944-X. You must fill out this form and attach it to Form 941 or Form 941-SS if you are a semiweekly schedule depositor or became one because your accumulated tax liability on any day was \$100,000 or more. Enter your daily tax liability on the numbered space that corresponds to the date wages were paid. See Section 11 in Pub. 15 (Circular E), Employer's Tax Guide, for details.

☒ 1  
☐ 2  
☐ 3  
☐ 4

- 1: January, February, March  
 2: April, May, June  
 3: July, August, September  
 4: October, November, December

**Month 1**

1	9	17	25	
2	10	18	26	1182.78
3	11	19	27	1244.16
4	12	20	28	1258.33
5	13	21	29	1203.86
6	14	22	30	
7	15	23	31	
8	16	24		

Tax liability for Month 1

4889.13

**Month 2**

1	9	17	25	1253.00
2	10	18	26	1286.06
3	11	19	27	
4	12	20	28	
5	13	21	29	
6	14	22	30	
7	15	23	31	1216.55
8	16	24		1194.12

Tax liability for Month 2

4949.73

**Month 3**

1	9	17	25	1207.50
2	10	18	26	
3	11	19	27	
4	12	20	28	
5	13	21	29	1198.51
6	14	22	30	1191.60
7	15	23	31	1215.78
8	16	24		1217.04

Tax liability for Month 3

6030.43

Fill in your total liability for the quarter (Month 1 + Month 2 + Month 3) ►

Total must equal line 10 on Form 941 or Form 941-SS.

Total liability for the quarter

15869.29

970214

Form 941 (Rev. 1-2016) Page 2

Name (not your trade name)

LIMASSOL GROCERY CORP

Employer identification number (EIN)

46-1228531

**Part 2: Tell us about your deposit schedule and tax liability for this quarter.**

If you are unsure about whether you are a monthly schedule depositor or a semiweekly schedule depositor, see section 11 of Pub. 15.

**14 Check one:** ☐ **Line 10 on this return is less than \$2,500 or line 10 on the return for the prior quarter was less than \$2,500, and you did not incur a \$100,000 next-day deposit obligation during the current quarter.** If line 10 for the prior quarter was less than \$2,500 but line 10 on this return is \$100,000 or more, you must provide a record of your federal tax liability. If you are a monthly schedule depositor, complete the deposit schedule below; if you are a semiweekly schedule depositor, attach Schedule B (Form 941). Go to Part 3.

☐ **You were a monthly schedule depositor for the entire quarter.** Enter your tax liability for each month and total liability for the quarter, then go to Part 3.

Tax liability: Month 1

Month 2

Month 3

Total liability for quarter

Total must equal line 10.

☒ **You were a semiweekly schedule depositor for any part of this quarter.** Complete Schedule B (Form 941), Report of Tax Liability for Semiweekly Schedule Depositors, and attach it to Form 941.

**Part 3: Tell us about your business. If a question does NOT apply to your business, leave it blank.**

**15 If your business has closed or you stopped paying wages** ..... ☐ Check here, and

enter the final date you paid wages

**16 If you are a seasonal employer and you do not have to file a return for every quarter of the year** ..... ☐ Check here.

**Part 4: May we speak with your third-party designee?**

Do you want to allow an employee, a paid tax preparer, or another person to discuss this return with the IRS? See instructions for details.

☐ Yes. Designee's name and phone number

☒ No. Select a 5-digit Personal Identification Number (PIN) to use when talking to the IRS.

QBME2902L 02/17/16

**Part 5: Sign here. You MUST complete both pages of Form 941 and SIGN it**

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

► **Sign your name here**

Print your name here

Print your title here

Date

Best daytime phone

**Paid Preparer Use Only**Check if you are self-employed ..... ☒

Preparer's name

PTIN

Preparer's signature

Date

Firm's name (or yours if self-employed)

EIN

Address

Phone

**NYS-45-ATT** Quarterly Combined Withholding, Wage Reporting,  
(2/13) And Unemployment Insurance Return — Attachment



61322110

Withholding identification number:

461228531 9

Employer legal name:

LIMASSOL GROCERY CORP

Mark an X in the applicable box(es):

A. Original ☒ or Amended return

Jan 1 - Mar 31	Apr 1 - Jun 30	July 1 - Sep 30	Oct 1 - Dec 31	Tax Year	15
1	2	3	4	YY	

B. Other wages only reported on this page.....

C. Seasonal employer.....

**Annual wage and withholding totals**

If this return is for the 4th quarter or the last return you will be filing for the calendar year, complete columns d and e.

**Quarterly employee/payee wage reporting information**  
(Do not enter negative numbers in columns c, d, and e; see instructions)

a Social security number	b Last name, first name, middle initial	c Total UI remuneration paid this quarter	d Gross federal wages or distribution (see instructions)	e Total NYS, NYC and Yonkers tax withheld
	ARAPIS, KALI MARIA	1852.21		
	ARGYRIS, GEORGIA	3273.97		
	AYALA, HENRY Y	7776.70		
	DARWISH, MOHAMED	8173.49		
	DIONYSIOU, CONSTANTINOS	15762.50		
	EVANGELISTA, JESUS	2491.16		
	FLORES RAYMUNDO, OBDULIO	5076.59		
	PANAGOPOULOS, VASILIOS	14462.50		
	PAVLIDES, ANASTASIA A	2213.78		
	PERALTA LINDERO, ISMAEL	5339.02		
	PERALTA, BASILIO	5179.89		
	ROJAS, FELIPE PANCOATL	4988.13		

*Re-  
acted*

Page No. 1 of 1 Total this page only..... 76589.94If first page, enter grand totals  
of all pages..... 76589.94

Contact information (see instructions)	Name	Daytime telephone number
---	------	--------------------------

EAA

NYEA0301 C8/14/13

For office use only  
Postmark

Received date

Mail to: **NYS EMPLOYMENT CONTRIBUTIONS AND TAXES**  
**PO BOX 4119**  
**BINGHAMTON NY 13902-4119**

# Exhibit D

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----	X
RYAN RIVERA,	:
	:
Plaintiff,	:
	:
-against-	:
	:
LIMASSOL GROCERY CORP. a/k/a GYRO	:
CORNER,	:
	:
Defendant.	:
-----	X

INDEX NO. 16-cv-06301

**AFFIDAVIT OF  
ANASTASIS ANASTASI**

Anastasis Anastasi, being duly sworn, deposes and says:


1. I am the owner of Limassol Grocery Corp. a/k/a Gyro Corner ("Limassol").
2. I am aware that Ryan Rivera has filed a complaint against Limassol alleging that it discriminated against him based upon his sexual orientation or perceived sexual orientation (the "Complaint").
3. The Complaint alleges that Limassol, at all relevant times, employed more than 15 employees, including individuals named "Xeno", "Kali Arapas", "Xenia Kokkinos", "Erini", "Eleni", "Ana Gialamboukis", "Christina Ioanidis", "Andreas Dionisiou", "Henry", "Mohammed Darwish", "Torres", "Jesus", "Manny", "Andy", "Vasili", "Gizmo" or "Israel", "Tony" and other individuals not listed in the Complaint.
4. These allegations are untrue. Limassol has never had more than 15 employees working for it, at any time.
5. Moreover, the following individuals named in the Complaint have never worked for Limassol: "Xeno", "Xenia Kokkinos", "Erini", "Eleni", "Ana Gialamboukis", "Christina Ioanidis", "Andreas Dionisiou", "Torres", "Andy", "Tony".

6. Attached as Exhibit A are true and correct copies of Limassol's Quarterly Employer Form 941 Federal Tax Returns for the period of January to December 2016, filed quarterly.
7. As indicated on the forms, Limassol has never had, and still does not have 15 employees.
8. At most, Limassol has employed only 11 employees, as is indicated on the tax forms.

Dated: New York, New York.  
March 6, 2017

By: Anastasis Anastasi  
Anastasis Anastasi

Sworn to before me this  
6<sup>th</sup> day of March, 2017

  
\_\_\_\_\_  
Notary Public

